

Dear members of the Senate Finance Committee:

Thank you for the opportunity to contribute my thoughts concerning the tax predicament of expatriate Americans to the current efforts at drafting bipartisan tax reform legislation in the United States Senate.

Although I firmly believe that the United States should emulate every other First World nation and impose income tax on the basis of residency, rather than citizenship, I am realistic enough to accept this will not happen in my lifetime, and possibly not my children's. Rather than asking the impossible, I instead would like to implore members of the Senate Finance Committee and their staffers who are drafting the forthcoming legislation to weigh carefully the consequences, quite possibly unintended ones, for taxpayers who have chosen to live their lives outside the United States.

As an example when unintended consequences for expatriates were not considered, I cite the following proposed tax legislation taken directly from the US Treasury "Green Book" issued in February 2010, on page 62:

A U.S. individual would be required to report, on the individual's income tax return, any transfer of money or property made to, or receipt of money or property from, any foreign bank, brokerage, or other financial account by the individual. . . . This reporting requirement would not apply if the cumulative amount or value of transfers, and the cumulative amount or value of receipts that would otherwise be reportable for a given year were each less than \$50,000. . . . Failure to report a covered transfer would result in the imposition of a penalty equal to the lesser of \$10,000 per reportable transfer or 10 percent of the cumulative amount or value of the unreported covered transfers. No penalty would be imposed for a failure to report due to reasonable cause. The Treasury Department would receive regulatory authority to issue rules to prevent abuse of the reporting exemptions and to provide exceptions to the reporting requirement. The proposal would be effective for transfers made after December 31, 2012.

I have lived and worked outside of the United States for more than 30 years. For each of those years, I have held a so-called "foreign" bank account – actually local to me -- in my country of residence to receive salary payments from my employer and to pay local expenses. For at least the last 25 of them, my annual income has exceeded \$50,000. Taken literally, the proposal quoted above would have required me to enumerate every salary payment received in my bank account, and every check issued or ATM withdrawal made from it, and report them on my Form 1040. The record-keeping demands would have been horrific, and for what purpose in the end? The author of this legislation obviously had in mind US-resident "fat cats" who make occasional large transfers of money in or out of overseas financial accounts. He or she either did not understand, or worse did not care, that the same requirement would ensnare middle-class Americans whose "foreign" accounts are used, not for tax evasion, but to facilitate day-today living.

Fortunately this particular piece of insanity did not become law. But there are other tax proposals that *have* become law which have ended up "blowing up in the face" of expatriates. The well-publicized cases of Americans being denied banking services since the passage of FATCA, even if they have lived in a country for years, come to mind. More recently, I have no doubt that some Americans living abroad have been compelled to make a "financial responsibility" payment under the requirements of the Affordable Care Act in the tax season just ending if they 1) do not meet the requirements for an exemption (basically the same as those for the Foreign Earned Income Exclusion under section 911 of the Internal Revenue Code); 2) do not receive minimum essential coverage from a foreign employer; and 3) cannot buy health insurance on a federal- or state-managed exchange as they do not have an address in the United States.

It is hard to believe that this unfortunate scenario where expatriates are “hung out to dry” represents Congressional intent.

I could go on, but I hope my point is clear. American taxpayers are not a monolithic group, expatriates less so than most. When working towards the laudable goal of reforming the US tax code, I very much hope that the legislative drafters analyze and take into account the consequences for *all* Americans.

Sincerely,

Bruce Taylor